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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/060,872	04/15/1998	DAVID A. ESTELL	GC527	1073

5100 7590 01/07/2003

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EXAMINER

SAUNDERS, DAVID A

ART UNIT PAPER NUMBER

1644

DATE MAILED: 01/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

060,872

Applicant(s)

ESTELL et al

Examiner

SAUNDERS

Group Art Unit

1644

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 6/4/02 & 9/26/02
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 14 & 17-32 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 20-23 is/are allowed.
- ☒ Claim(s) 14, 17-19, 24 & 26-32 is/are rejected.
- ☒ Claim(s) 25 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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The amendments of 6/4/02 (Paper 34) and 9/26/02 (Paper 38) have been entered. Claims 14 and 17-32 are pending and under examination.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment has overcome the previously stated 112, second paragraph rejection of claim 23.

Applicant's amendment has necessitated the following new grounds of rejection under 112, second paragraph.

Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 24 "the protein" lacks antecedent basis.

Applicant's amendment has necessitated the following new grounds of objection to the claims.

Claims 24-25 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In claim 24 the term "protease" is broader than "microbial subtilisin" in claim 23. In claim 25 "subtilisin" is broader than "microbial subtilisin in claim 23.

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Applicant is advised that should claims 14 and 26-28 be found allowable, claims 29-32 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Applicant's amendment has overcome the previously stated 112, first paragraph rejection with respect to new matter in claim 18: however the amendment has necessitated the following new rejection of the claims upon this ground of new matter.

Claims 14, 17-19, and 26-32 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 17 contains new matter in step (b). Claim 18 contains new matter in step (a) (I).

Amended claims 17 and 18 require that the differentiating of the dendritic cells be accomplished by combining with/exposure to "at least one cytokine". The examiner cannot find this phrase in the original disclosure. Example 1 specifically embodies the use of the cytokines IL-4, GM-CSF, TNF alpha and IL-1 alpha, at particular concentrations, for particular times, and in a particular sequence of addition. The exemplification of the use of form particular species of cytokines in this example in a particular manner does not, however, support the generic use of "at least one cytokine" as recited in claims 17 and 18.

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The rejection of record under 112, first paragraph with respect to description has been withdrawn due to applicant's urgings.

Due to applicant's amendment and urgings the prior art rejection of record has been withdrawn.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

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1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Saunders, Ph.D., whose telephone number is (703) 308-3976. The examiner can normally be reached on Monday-Thursday from 8:00 a.m. to 5:30 p.m. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan , can be reached on (703) 308-3973. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

D. Saunders:jmr

December 16, 2002

*David A. Saunders*  
DAVID SAUNDERS  
PRIMARY EXAMINER  
ART UNIT 182/644